



DEC 19 2019

Beth Townsend
Director
Iowa Workforce Development
1000 E Grand Avenue
Des Moines, IA 50319

Dear Director Townsend:

The Department of Labor's (Department) Employment and Training Administration (ETA) received appeals on June 25, 2019, from the Iowa Region 1, 2, 3, 4, 5, 7, 9, and 14 local workforce development areas (LWDA), regarding the Governor's decision to change the designation status of the LWDAs in the State by reducing the total number of LWDAs from 15 to six. The appeals were denied by the State and, subsequently, elevated to ETA.

In the appeals, the chief elected officials (CEOs) of the LWDAs raised a number of issues related to the appeals process and redesignating LWDAs. The issues raised include the following:

- CEOs and local board members were not properly consulted regarding the State's realignment efforts;
- The State did not issue a clear policy or procedure related to local area designation or appeals of designation decisions;
- The instructions provided by Iowa Workforce Development to appeal the State's local area redesignation were contradictory to the appeals processes outlined in the approved Iowa Workforce Innovation and Opportunity Act (WIOA) State Plan;
- The designation and appeals process lacked transparency;
- The State's appeals process was confusing and untimely;
- The State denied the appeals on May 30, 2019, without explanation or discussion by the state workforce development board (SWDB); and,
- Consolidating the regions will have a disproportionately negative impact on rural areas.

Scope of the Department's Review

Section 106(b)(5) of WIOA permits a unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation as a local area under WIOA Section 106(b)(2) or (3) to submit an appeal to the SWDB under an appeal process in accordance with WIOA Section 106(b)(5) and its

implementing regulations at 20 C.F.R. § 679.290(a). Under 20 C.F.R. § 679.290(b), if the SWDB is unable to make a timely appeal determination or if the appeal to the SWDB does not result in designation, the entity may request review by the Secretary of Labor under the procedures set forth at 20 C.F.R. § 683.640. The scope of the Secretary's review includes investigation and imposition of remedies for a violation of the procedural requirements of the aforementioned statutory and regulatory sections.

Determination

The Department has considered the evidence and has determined that:

1. The State did not satisfy the requirements of 20 C.F.R. § 683.630(a), which requires the State to establish an appeals process or system related to non-designation of local areas.

First, the State acknowledged in a letter to the Secretary of Labor dated July 12, 2019, that the State had not established a formal local area designation appeals policy at the time of the LWDA appeals, noting that “[d]evelopment of formal appeal procedures has been fluid.”

Second, the State's decision on the LWDA appeals lacked sufficient transparency. The State did not provide a formal written determination to the appellants with a decision in response to the local area appeals. Under 20 C.F.R. § 679.620, the Department may review an appeal for which a decision has not been rendered in a timely manner or that results in non-designation. Given the lack of a written determination by the State and given the fact that the State does not contest the timeliness of these appeals, review by the Department is appropriate.

2. The State did not establish a transparent written procedure to carry out LWDA redesignation in accordance with either WIOA Section 106(b) or, in the alternative, WIOA Section 189(i)(1), which permits a state to use its own state law rather than WIOA for local area designation under certain circumstances. WIOA Section 189(i)(1) permits a state that has enacted, not later than December 31, 1997, a state law providing for the designation of service delivery areas for the delivery of workforce investment activities to use its state code for the purpose of local area designation. Otherwise, a state must use the designation procedures at WIOA Section 106(b). The Department previously notified the State on April 4, 2019, that the State could use either WIOA 106(b) or its own state code at Iowa Code Section 84B.3 for local area redesignation.

The supporting documentation provided by the State and appealing LWDA's is insufficient to determine whether the local officials and local boards were informed in writing which procedures the State used for redesignation. The Department, additionally, had difficulty in determining the State's procedures for designating LWDA's. The documentation submitted by the State and appellants reveal that the

local area designation procedures, criteria for designation, and consultation process were not understood by the local areas.

Therefore, the Department does not uphold the State's redesignation of LWDAs. The State must continue operating with the previous structure, consisting of 15 local areas, until the State:

1. Issues a local area designation policy and procedure publicly and transparently.

On June 28, 2018, the Department approved Iowa's 2018 WIOA State Plan modification on the condition that the State develop a local area designation policy. The Department issued a subsequent letter to Iowa on April 4, 2019, which allowed the State to use either local area designation requirements at WIOA Section 106(b) or the designation process established under Iowa Code Section 84B.3. The letter again required the State to modify its State Plan to incorporate designation and appeals procedures. The Department received the State Plan modification on October 11, 2019, and it is currently under review.

2. Issues a local area designation appeals policy in accordance with WIOA Section 106(b)(5) and 20 C.F.R. § 679.290.

As per the April 4, 2019, letter, "[While] the State may use Iowa Code Section 84B.3 to govern its local area redesignation process, it must continue to adhere to requirements for establishing appeal procedures available to local governments and local workforce development areas in its State Plan (see 20 C.F.R. §§ 679.290 and 683.630(a))." The State must establish due process procedures that provide expeditious appeal to the SWDB. These procedures must provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal. If the appeal to the SWDB does not result in designation, the appellant may request review by the Secretary of Labor. A strong appeals policy provides for the following:

- a. A written determination that a local area's request for initial or subsequent designation has been approved or denied by the State.
 - b. A reasonable window of time for units of government that request but were denied local area designation to submit a formal appeal to the State.
 - c. The required contents of a State-level appeal and the criteria by which the appeal will be evaluated.
 - d. The circumstances under which units of local government that request but are denied local area status may appeal to the Secretary of Labor.
3. Seeks meaningful local input and consultation as the State implements a compliant local area designation policy and local area designation or reorganization.

As per the April 4, 2019, letter, "[s]hould Iowa choose to redesignate its local areas in accordance with Iowa Code Section 84B.3, it must ensure documentation of

compliance with that law. In particular, the State must consult with locally impacted workforce development boards determined by the SWDB to be adversely affected by newly formed designations, as required by the law.” The Department understands that the Iowa Code does not explicitly require consultation with CEOs. However, as the CEOs are the grant recipients in the local WIOA system, and they appoint the members of the local boards, the State’s future efforts to restructure the local system should include the CEOs. Examples of meaningful consultation include listening sessions, public meetings, and an open public comment period. In all cases, the State must document the nature of the consultation and/or comment and the parties consulted (e.g., sign-in sheets, meeting agendas, or meeting minutes or transcripts).

The Department understands that the State has taken some of the actions above and supports the efforts underway to improve communication and transparency with local elected officials and system stakeholders.

This letter constitutes the Department’s determination action on the recent local area appeals. The Department recognizes that the State is taking action to respond to the appeals. Among other activities, the SWDB approved a new local area designation policy that includes appeal procedures, which the State codified in a recent modification to its WIOA State Plan. We look forward to working with Iowa to ensure the local area designation and appeals processes are well understood by all key stakeholders. We encourage all parties at the state and local levels to continue working to resolve outstanding issues for employers, employees, and job seekers throughout Iowa.

Sincerely,



Laura Watson
Administrator, Office of Grants Management

cc: Christine Quinn, Regional Administrator, ETA
Tommy Ouyang, Federal Project Officer, ETA

From: Michelle McNertney

Date: January 9, 2020

Subject: WIOA Requirements Checklist and Guidance on Title I Service Provider Contracts

Dear Chief Elected Officials,

IWD will begin monitoring each local area on July 1, 2020. In support of this effort, I will forward a checklist of program specific requirements and sample documents for your review prior to our discussion at the January 30, 2020 ISAC meeting.

One specific item I want to highlight for your attention concerns the disbursement of local WIOA funds. The existing Title I Service Provider contracts in all 15 local areas are due to expire on June 30, 2020. These current contracts allocate WIOA funds directly from IWD to Title I Service Providers, which is an improper method of disbursement. By statute and regulations, WIOA funds must be allocated from IWD to the local grant recipient/chief elected official or to his/her designated fiscal agent in each Local Workforce Development Area (LWDA). The local elected officials must then allocate these funds to Title I Service Providers. This new fund distribution process will require local elected officials and local workforce development boards to initiate the request for proposal (RFP) process and contract directly with Title I Service Providers. Please note - current or prospective Title I Service Providers cannot assist with the RFP process due to the possibility of a conflict of interest. IWD recognizes that the RFP process can often be time consuming, which is why it is imperative that local elected officials and local workforce development boards begin this process to contract with Title I Service Providers as soon as possible to avoid service disruption when the current contracts expire.

If you haven't done so already, I encourage you to become familiar with the Department of Labor-sponsored WorkforceGPS website at www.workforcegps.org. The website contains a wealth of useful information, including webinars, training resources, and workforce development practices that everyone can use.

I also ask that you please forward this email to members of your local workforce development boards to ensure widest dissemination and transparency as we continue moving forward to achieve WIOA compliance. Please continue to reach out to myself, Mike Witt, Linda Rouse, or Ronee Slagle if you have questions.

Thank you!

Michelle McNertney

Division Administrator - Workforce Services

[Iowa Workforce Development](http://www.iowa.gov/workforce-development)

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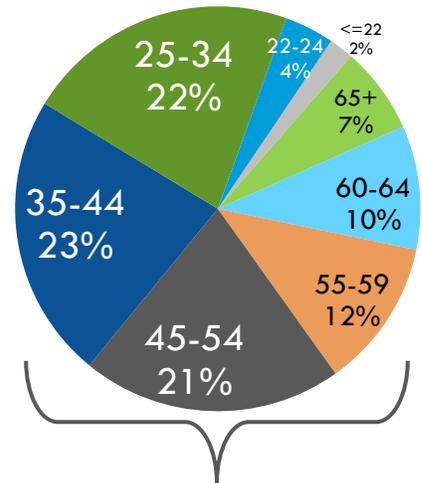
PROFILE OF IOWA'S UNEMPLOYED PERSONS

(UNEMPLOYMENT BENEFIT RECIPIENTS)

GENDER

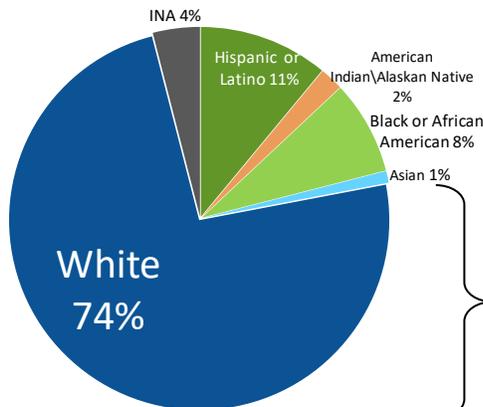


AGE



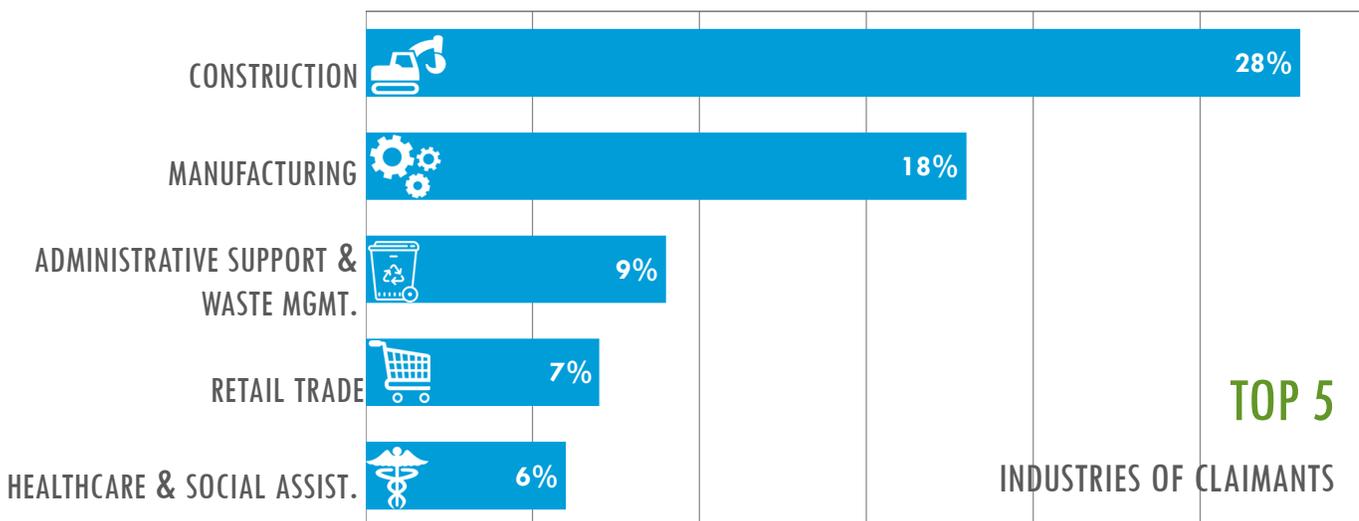
66% of all claimants were between the ages of **25 & 54**.

RACE/ETHNICITY



76% of all claimants were white followed by **10%** Hispanic or Latin .

INDUSTRY

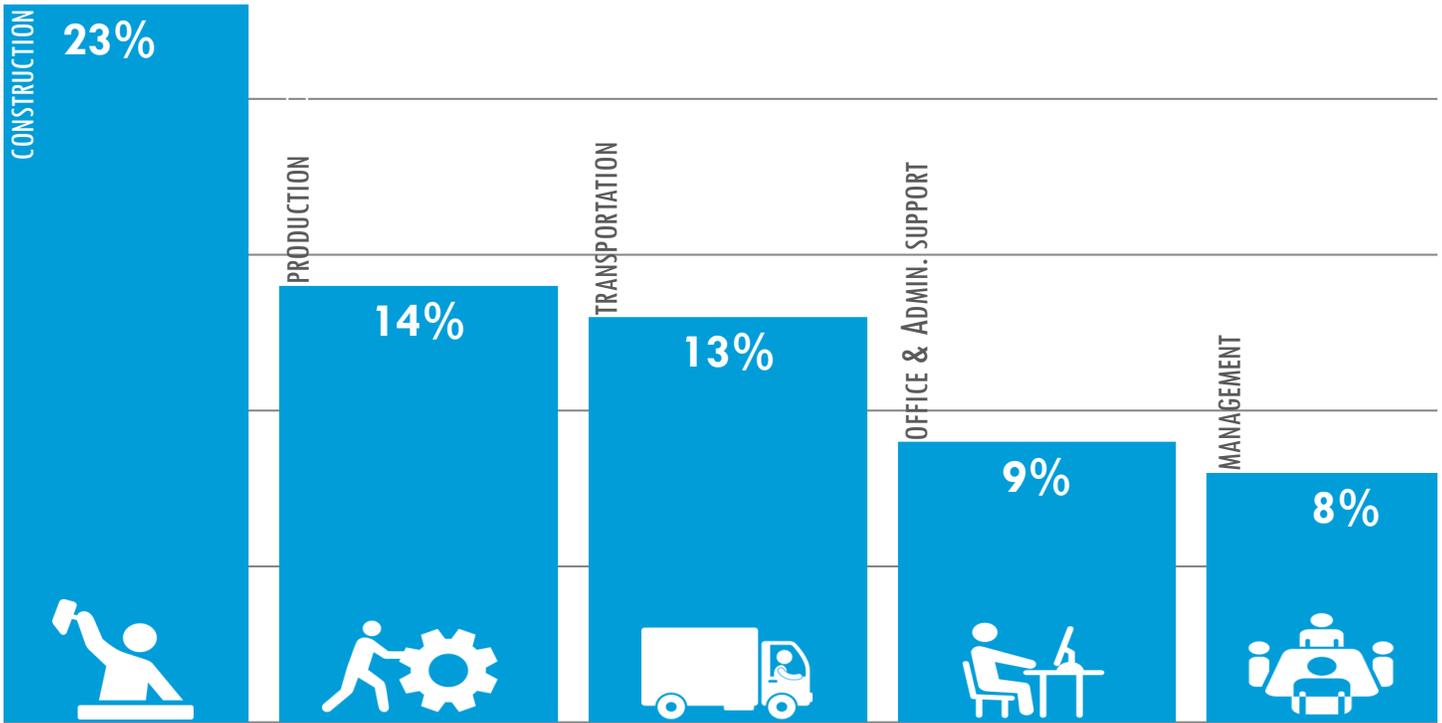


TOP 5

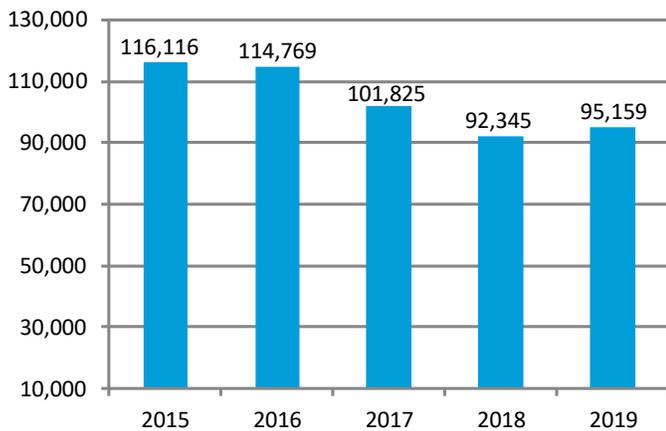


OCCUPATION

OCCUPATIONAL CATEGORIES OF CLAIMANTS

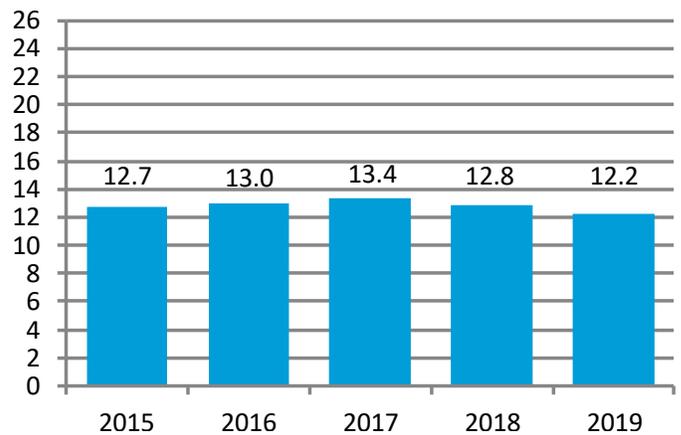


NUMBER OF UI RECIPIENTS



DURATION OF UI BENEFITS
12 MONTH AVG.

Weeks Paid



- Recipients represent the number of persons receiving at least one UI benefit payment during the year.
- The number of UI recipients increased to 95,159 for calendar year 2019. An increase from 92,345 UI recipients in calendar year 2018 due to slightly higher claims in the manufacturing industry.
- The maximum duration of UI benefits for most UI claimants is 26 weeks.
- The duration of benefits for calendar year 2019 was 12.2 weeks. The duration of benefits was 12.8 weeks for calendar year 2018.

Source: Iowa Unemployment Insurance Statistics. Note: The UI system was primarily designed to serve people who lost their last job. These characteristics do not necessarily reflect job leavers, new entrants, reentrants, and benefit exhaustees. According to the UI Data Summary publication, about 40% of unemployed persons in Iowa received UI benefits.

From: Michelle McNertney
Sent: Friday, January 24, 2020
Subject: Local Area Redesignation - Technical Assistance for CEOs

Chief Elected Officials,

Thank you for your questions regarding voluntary designation of local workforce development areas (LWDAs) in Iowa and interest in working collaboratively to do so. IWD will absolutely support any such efforts by interested parties. While you are considering whether or not your local area wants to make changes, I wanted to share the process by which this could be done.

In order to form a new LWDA, the State Workforce Development Board (SWDB) must approve the proposed new LWDA. As an example, if a group of CEOs from counties that are not currently part of the same local area wanted to pursue a different or new LWDA redesignation, they would need to do the following:

1. The CEO from each participating county must agree to be a part of the new LWDA.
2. Each CEO needs to consult with his/her existing Local Workforce Development Board (LWDB) concerning the proposed changes to the LWDA. Consultation with LWDB members must be documented and included with the written request to realign.
3. The CEOs from the proposed LWDA must provide IWD with a written request to realign, including the reasons underlying the request and a description of the consultation undertaken with the existing LWDB. The written request to realign must explain why the LWDB supports the realignment or not.
4. IWD will then present the redesignation request to the SWDB at the next scheduled meeting. It is recommended that as many of the impacted CEOs attend the meeting to give the SWDB the benefit of your input in person.
5. The SWDB will then deliberate and vote to approve or deny the request.
6. A LWDB Chair or Chief Lead Elected Official may appeal the SWDB's decision within 30 calendar days following the date of the decision. The appeals process is set forth in the Iowa Unified State Plan, as well as Iowa's WIOA administration and governance policies.

The SWDB meets quarterly and all requests to be on the SWDB agenda for this purpose, must be received by IWD no later than 14 days before the scheduled meeting. The next scheduled SWDB meeting will be held February 27, 2020, from 2:00 - 4:00 pm at Plumbers & Steamfitters U.A. Local 33, 2501 Bell Ave, Des Moines, IA 50321. To appear on the SWDB agenda for this meeting, an LWDA designation request must be received by IWD no later than February 13, 2020.

Please do not hesitate to contact me should you have any questions or request any technical support you may need should your area be interested in pursuing a change to your LWDA. In the meantime, we will continue our efforts to assist all LWDAs to become WIOA compliant.

Thank you,

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